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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION
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21 **DARREN CORNELIUS STANLEY,**
22 Petitioner,
23 **v.**
24 **KEVIN CHAPPELL, Acting Warden,**
25 **California State Prison at San Quentin,**
26 Respondent.

C 07-4727 EMC

DEATH PENALTY CASE

**STIPULATION AND [PROPOSED]
ORDER RE RESPONDENT'S
DISCOVERY IN CONNECTION WITH
COMPETENCY DETERMINATION**

On April 23, 2012, this Court granted petitioner's motion to determine competency. On May 8 and 15, 2012, the parties filed a Joint Case Management Statement and replies addressing the structure and schedule for the Court's determination of petitioner's present competency to assist counsel and participate in these capital habeas corpus proceedings. The Court has not yet issued an order setting forth the structure and schedule for the competency determination.

Subject to approval by this Court, the parties hereby agree and stipulate to the following:

1) Pursuant to Rule 6 of the Rules Governing Section 2254 Cases, there is good cause for respondent's request for production of the following documents from petitioner under Rule 34 of the Federal Rules of Civil Procedure, to the extent petitioner's counsel have such documents in their possession as of the date of the entry of the Order on this Stipulation:

- a) petitioner's birth and pediatric medical and mental health records;
- b) petitioner's school records (elementary, middle, and high schools);
- c) petitioner's juvenile hall and California Youth Authority (CYA) records (including disciplinary, medical, mental health, education, and work);
- d) petitioner's jail records (medical/mental health only) from the period when he was incarcerated during the pretrial, trial, and sentencing stages of this case;
- e) the "medical document" of petitioner's maternal grandfather, Isaac Hayes, who was diagnosed with psychosis due to epilepsy, and which was relied upon by Dr. Benson in his state habeas declaration (*see* paragraph 3(e) of declaration); and,
- f) all mental health records of petitioner's family members in petitioner's possession, whether or not provided to Dr. Gregory or Dr. Hines.

2) Pursuant to Rule 6 of the Rules Governing Section 2254 Cases, there is good cause for respondent to issue third-party subpoenas for the following documents under Rule 45 of the Federal Rules of Civil Procedure:

- a) petitioner's juvenile hall and California Youth Authority (CYA) records (including disciplinary, medical, mental health, education, and work); and,
- b) petitioner's jail records (medical/mental health only) from the period when he was incarcerated during the pretrial, trial, and sentencing stages of this case.

1 3) The Federal Rules of Civil Procedure will apply to respondent's request for production
2 of documents and issuance of subpoenas.

3 4) Petitioner will produce the above requested documents and/or issue objections within 30
4 days of the Court's order on this stipulation;

5 5) Respondent's third-party subpoenas will issue within 7 days of the Court's order on this
6 stipulation and will command production of responsive documents within 30 days of issuance of
7 the subpoena. Within 7 days of respondent's receipt of responsive documents, respondent will
8 provide copies of the documents to petitioner at petitioner's expense. Petitioner will rely upon the
9 Federal Rules of Civil Procedure for relief if any third party fails to comply in a timely manner.

10 6) Documents produced in response to respondent's discovery request and subpoenas will
11 be covered by any protective order issued by the Court in connection with the competency
12 determination.

13 7) Petitioner reserves the right to object to the admission of any of the documents obtained
14 pursuant to this Stipulation on the grounds that such documents are irrelevant or inconsequential
15 to the determination of Petitioner's present competency to meaningfully assist counsel or
16 participate in these habeas corpus proceedings. Petitioner reserves the right the object on these
17 same grounds to any expert opinions based upon any documents obtained pursuant to this
18 Stipulation, or upon the non-existence or unavailability of responsive documents.

19 IT IS SO STIPULATED.

20 Dated: July 27, 2012

21 By: /s/ Michele J. Swanson
22 GLENN R. PRUDEN
23 Supervising Deputy Attorney General
24 MICHELE J. SWANSON
25 Deputy Attorney General
26 Attorneys for Respondent

27 Dated: July 27, 2012

28 By: /s/ Roger I. Teich
 ROGER I. TEICH
 DAVID A. NICKERSON
 Attorneys for Petitioner

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1 IT IS SO ORDERED.

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3 Dated: 8/1/12



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CERTIFICATE OF SERVICE

Case Name: **Stanley v. Chappell, Acting
Warden**

No. **C 07-4727 EMC**

I hereby certify that on July 30, 2012, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**STIPULATION AND [PROPOSED] ORDER RE RESPONDENT'S DISCOVERY IN
CONNECTION WITH COMPETENCY DETERMINATION**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 30, 2012, at San Francisco, California.

D. Desuyo
Declarant

/s/ D. Desuyo
Signature